



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE
355-A Deadmore Street, Abingdon, Virginia 24210
(276) 676-4800 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Jeffrey Hurst
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
TAZEWELL COUNTY
FOR
TAZEWELL COUNTY SANITARY LANDFILL
Solid Waste Permit No. 564
Incident Report No. 302354**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Tazewell County, regarding the Tazewell County Sanitary Landfill, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "County" means Tazewell County, a political subdivision of the Commonwealth of Virginia. Tazewell County is a "person" within the meaning of Va. Code § 10.1-1400.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Landfill" means the Tazewell County Sanitary Landfill, located at 2475 Lynn Hollow Road, North Tazewell, Virginia, which is owned and operated by Tazewell County.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit (SWP) No. 564, which was issued under the Virginia Waste Management Act and the Regulations to Tazewell County on March 2, 1994.
9. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
10. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. On March 2, 1994, the County was granted the Permit to operate a sanitary landfill by the Director of DEQ or his designee. The Permit allows disposal of solid waste at the Landfill in accordance with its terms.
2. The Facility has been operated as a sanitary landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit. Santek Waste Services of Virginia, LLC, a subsidiary of Republic Services ("Republic"), operates the Facility on behalf of the county pursuant to an operating agreement between the County and Republic.
3. On January 10, 2022, DEQ received a pollution incident report via the pollution reporting portal on DEQ's public website. Incident Report No. 302354 was assigned to the incident. The report indicated that, during filling of a tanker truck with leachate from the Facility, the leachate had overflowed the holding tank on the truck, spilled onto the ground, and discharged into a nearby surface water. DEQ staff identified the surface

water as an unnamed tributary to the North Fork Clinch River. The North Fork Clinch River is located in the Tennessee-Big Sandy River Basin, Clinch-Powell Subbasin, class IV, section 2c, and is a public water supply segment.

4. On January 10, 2022, DEQ water compliance staff visited the Landfill and spoke with Republic staff about the incident. During the site visit, Republic staff verbally notified DEQ that an offsite release of approximately 2,000 gallons of leachate from the Facility had occurred on January 8, 2022.
5. On January 26, 2022, Republic submitted a written notification of the January 8, 2022 offsite release of leachate from the Facility. The notification stated that, during filling of a leachate transport truck on January 8, 2022, the leachate vessel overfilled due to operator error. This reportedly resulted in approximately 2,000 gallons of leachate from the Facility spilling onto the ground and flowing into the ditch adjacent to the public road fronting the property.
6. On February 23, 2022, Republic submitted a field investigation and sampling report regarding the January 8, 2022 offsite release of leachate from the Facility.
7. On February 23, 2022, DEQ staff conducted an offsite focused compliance inspection to review documents submitted to DEQ by Republic and to evaluate Facility compliance with applicable regulations. Findings of the inspection are as follows:
 - a. The field investigation and sampling report submitted to DEQ by Republic on February 23, 2022 stated that the flow path followed by the spilled leachate had been identified through observation by Facility staff at the time of the offsite release. The spilled leachate had reportedly flowed into the onsite western storm water drainage ditch and subsequently flowed into the offsite eastern storm water drainage ditch. A review of DEQ records identified the offsite eastern storm water drainage ditch as an unnamed tributary to the North Fork Clinch River, which extends upstream beyond the point of origin of the reported leachate release.
 - b. The offsite release of leachate from the Facility occurred on January 8, 2022. The 24 hour oral notification to DEQ was not submitted until January 10, 2022. The five day written notification to DEQ was not submitted until January 26, 2022.
8. 9 VAC 20-81-140(A)(6)(a) states: "Landfills shall not: Allow leachate from the landfill to drain or discharge into surface waters except when treated onsite and discharged into surface water as authorized under a VPDES Permit."
9. 9 VAC 20-81-530(C)(3) states: "The permittee shall report to the department any noncompliance or unusual condition that may endanger health or environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission

shall contain a description of the circumstances and its cause; the period of occurrence, including exact dates and times, and, if the circumstance has not been corrected, the anticipated time it is expected to continue. It shall also contain steps taken or planned to reduce, eliminate, and prevent reoccurrence of the circumstances resulting in an unusual condition or noncompliance.”

10. On March 31, 2022, based on the February 23, 2022 inspection, the Department issued Notice of Violation No. NOV-001-0322-SW to the County for the violations described in paragraphs C(7) through C(9), above.
11. On May 3, 2022, the County submitted a written response to the March 31, 2022 NOV. The response outlined actions that the County and Republic had taken in response to the offsite release of leachate from the Facility. The response also detailed future actions the County and Republic plan to implement in order to prevent future offsite releases of Leachate from the Facility.
12. Based on the results of the January 10, 2022 DEQ site visit, the January 26, 2022 and February 23, 2022 documentation submitted to DEQ by Republic, the February 23, 2022 DEQ offsite inspection, and the May 3, 2022 written NOV response submitted to DEQ by the County, the Board concludes that the County has violated 9 VAC 20-81-140(A)(6)(a) and 9 VAC 20-81-530(C)(3), as described in paragraphs C(7) through C(9), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Tazewell County, and Tazewell County agrees to:

Pay a civil charge of \$12,403.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Tazewell County shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Tazewell County shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the County for good cause shown by the County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. NOV-001-0322-SW, dated March 31, 2022. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The County declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The County shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;
and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the County. Nevertheless, the County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after the County has completed all of the requirements of the Order;
 - b. the County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind

the County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the County.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, the County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 25th day of July, 2022.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

Tazewell County voluntarily agrees to the issuance of this Order.

Date: 6/17/2022 By: [Signature], County Administrator
(Person) (Title)
Tazewell County

Commonwealth of Virginia

City/County of Tazewell

The foregoing document was signed and acknowledged before me this 17th day of
June, 2022, by C Eric Young who is
County Administrator of Tazewell County, on behalf of the County.

[Signature]
Notary Public

7623562
Registration No.

My commission expires:

Notary seal:

